IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 24924 of 2001

Between:

G.Veeraswamy s/o Late Sri Agaiah,
R/o Mahabubabad, Warangal District.

..... PETITIONER

AND

1.The District & Sessions Judge, Warangal.
2.The Senior Civil Judge, Mahabubabad,

Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or a direction or a Writ, more particularly a writ in the nature of Certiorari declaring the recovery orders Dis. No.721, dt. 27/10/2001 of the Senior Civil Judge, Mahabubabad, the second respondent herein directing the refixing of the pay and allowances of the petitioner contrary to F.R.22(B) and proposing to recover the difference in pay and allowances drawn from the salary of the petitioner as arbitrary, illegal and violative of Principles of Natural Justice and consequentially quash the same.

Counsel for the Petitioner: Mr. P.PRATAP REDDY

Counsel for the Respondents : Mr. C.V.NAGARJUNA REDDY

The Court made the following :

ORAL ORDER:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

The petitioner is questioning the order passed on 25.5.2001 calling upon him to pay the excess amount withdrawn by the petitioner. Petitioner's representation for fixing his pay and his entitlement to monetary benefits and pay and allowances was considered by the Principal Senior Civil Judge, Warangal with reference to the applicability of Fundamental Rule 22-B. He, on 28.6.2000, passed an order holding that the petitioner was entitled to the difference of pay and allowances with effect from 1-3-1985, and, thus, the difference in pay and allowances was paid to him. The petitioner, thereafter, was transferred to the Court of the Senior Civil Judge, Mahabubabad, who found the fixation of pay of the petitioner to be erroneous and not in conformity with the decision of this Court in **G.Padma Reddy v. Government of A.P.,** and directed the refixation of the pay of the petitioner and recovery of the dues. When amount was not paid after pay was refixed and proceedings were initiated for recovery, the petitioner filed this Writ Petition.

We have heard the learned counsel for the petitioner.

Learned counsel for the petitioner, rightly and frankly so, conceded that the ratio decidendi in **G.Padma Reddy's case (1 supra)** is applicable, and, petitioner's pay has rightly been refixed now, and, the petitioner was not entitled to monetary benefits of pay and allowances. However, it is prayed that since amount has already been paid, petitioner may be given the same benefit as was allowed in **G.Padma Reddy's case (1 supra)**, and, that it will be too harsh and onerous, in case, petitioner is asked to refund the amount already paid. This submission cannot be accepted since when **G.Padma Reddy's case (1 supra)** was decided, there was uncertainty in law created, to certain extent, by the conflicting decisions. Accordingly, petitioners therein were asked not to refund the amount. In the instant case, there was no uncertainty when order was passed in petitioner's favour, as decision **in G.Padma Reddy's case (1 supra)** was available. The order allowing monetary benefits, thus, was erroneous, and, rightly, it was recalled.

There is no merit in the Writ Petition, which is accordingly dismissed. No costs.

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DEVINDER GUPTA, C.J.

15.12.2004.

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M.NARAYANA REDDY, J.

VR.

To

1.The District & Sessions Judge, Warangal (with records).
2.The Senior Civil Judge, Mahabubabad,

Warangal District.

3. Two CD copies.